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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT TACOMA

11 GREGORY W. O'NEAL,

12 Petitioner,

13 v.

14 WARDEN MCDONALD,

15 Respondent.
16

Case No. C08-5454FDB

ORDER DIRECTING FURTHER
BRIEFING

17 This matter is before the court on a petition for writ of habeas corpus, which was filed on or about
18 July 18, 2009. The Washington State Attorney General has responded to the petition on behalf of
19 respondent, and after reviewing the matter, the court would like the parties to submit additional briefing.
20 Specifically, the court would like the parties to address the status of the Washington State Supreme
21 Court's decision, dated May 21, 2008, to stay Petitioner's motion for discretionary review and the issues
22 raised therein.

23 The court is concerned that if it proceeds to issue a report and recommendation on the current
24 petition, which does not include or raise the issues raised in the motion for discretionary review, i.e.,
25 ineffective assistance of counsel, Petitioner may if he attempts to later raise the issue be barred or
26 otherwise hindered from filing a second or successive petition. *See* 28 U.S.C. §2244. Accordingly, The
27 court would like to take up the issue of whether or not it should stay this matter to allow time for the
28 State Supreme Court decision to be made on Petitioner's PRP and to allow Petitioner to possibly amend

1 the current petition to include those related issues after they have been properly exhausted.

2 If Petitioner would like to have this matter stayed to allow him the opportunity to include his
3 ineffective assistance of counsel claims in the current petition following the State Supreme Court's review
4 of his PRP raising those issues, he shall file a brief on this issue no later than February 13, 2009. After
5 Petitioner files a brief, Respondent shall file a responsive brief no later than February 27, 2009.

6 The Clerk shall direct copies of this Order to petitioner and to counsel of record.

7 DATED this 22nd day of January, 2008.

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9 /s/ J. Kelley Arnold
J. Kelley Arnold
10 United States Magistrate Judge
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